

BOARD OF COUNTY COMMISSIONERS
LEON COUNTY, FLORIDA
REGULAR MEETING
JANUARY 13, 2004
DRAFT

The Board of County Commissioners of Leon County, Florida met in regular session with Chairman Sauls presiding. Present were Commissioners Thaell, Maloy, Winchester, Proctor, Rackleff, and Grippa. Also present was County Attorney Herb Thiele, County Administrator Parwez Alam, Deputy Clerk Bill Bogan, Jr., and Secretary Sandra C. O'Neal. The meeting was called to order at 5:00 p.m.

Invocation was provided by Commissioner Cliff Thaell, which was followed by the Pledge of Allegiance to the Flag.

Awards and Presentations

- The Board presented the attached resolution recognizing Brian Johnson, former Godby student and Louisiana State University (LSU) Student-Athlete, recognizing his participation, efforts and contribution in LSU's success in the NCAA National Championship. The Board noted that Brian is the son of Gary, who is employed by Leon County GEM, and Marty Johnson:

- Leon County 2003 United Way Campaign Presentation: Ken Armstrong of United Way presented a "Lifesaver Award" to Commissioner Grippa for his leadership role. The Board commended Jennie Khoen, Public Information Officer, for her coordination and hard work, and County employees for the success of the campaign. The County exceeded its goal of \$130,000 and received \$141,118. Leadership givers were recognized and Leigh Root, Public Works, was given a "Tug of War" trophy for her participation.

Consent

Commissioner Grippa moved, duly seconded by Commissioner Racklell and carried unanimously, 7/0, to approve the following Consent agenda with the exception of Items 1, 4, 8, 10, 14, and 17, which were pulled for discussion and addressed as described:

1. Approval of Minutes for: Revised September 15, 2003 Joint City/County Special Meeting on CRA; October 14, 2003, October 28, 2003, and November 25, 2003 Regular Meetings

Commissioner Proctor pulled this item, referenced the CRA minutes and suggested conducting a workshop with the City on this issue. He voiced concern that things were being represented to the public through the utility bill while the City and County had not reconciled issues. Commissioner Grippa advised that he met with City Commissioner Mustian. The Board indicated that a dialogue with him was necessary.

Commissioner Grippa moved, duly seconded by Commissioner Proctor and carried unanimously, 7/0, to request that City Commissioner Mustian attend the next County Commission meeting (January 27, 2003) and to schedule a singular (not joint) workshop on the CRA on January 27th and invite Commissioner Mustian to attend the workshop. County Administrator Alam noted that the workshop on MIS Technology Update was scheduled for January 27th but it could be changed to accommodate the CRA workshop.

Commissioner Proctor moved, duly seconded by Commissioner Maloy and carried unanimously, 7/0, to approve Option 1: Approval of Minutes for: Revised September 15, 2003 Joint City/County Special Meeting on CRA; October 14, 2003, October 28, 2003, and November 25, 2003 Regular Meetings.

2. Approval of Bills and Vouchers Submitted for January 13, 2004 and Pre-approval of Bills and Vouchers Submitted for January 14, through January 26, 2004

The Board approved Option 1: Approve payment of bills and vouchers submitted for approval for January 13, 2004, and pre-approve payment of bills and vouchers for the period of January 14, 2004 through January 26, 2004: \$13,454,476.19

3. Approval of the FY 2004/2005 Tentative Budget Calendar

The Board approved Option 1: Approve the use of the budget calendar for FY 2004-2005. See attached:

4. Approval to Continue Funding for the Guardian Ad Litem (GAL) Program

Commissioner Thael pulled this item for discussion. Court Administrator Grant Slayden and Director of Statewide GAL, Angela Orkin, 600 South Calhoun Street, approached Board and requested continued funding. Ms. Orkin explained that she would ask the State to provide the funding. The Board indicated the importance of filling the positions so that when Article V takes affect, the state would absorb the funding at the full level

Commissioner Thael moved, duly seconded by Commissioner Grippa and carried unanimously, 7/0, to approve Option 1 with the correction of the amount as underlined: Option 1 - Authorize the continuation funding for the guardian ad litem (GAL) program through June 30, 2004 consistent with the approved FY 03-04 budget in the corrected amount of \$42,491.50 and authorize the provision of in-kind support until such time as clarification is reached with the state as to the County's obligations.

5. Approval to Accept Property Owner's Offer to Convey Property Needed for Old St. Augustine/Blairstone Intersection Improvement Project

This agenda item requests Board approval for the County Administrator to accept the counter-offer received from the John Wesley United Methodist Church to convey to the County a portion of its property needed for the construction of the stormwater facility for the improvement project at the intersection of Old St. Augustine Road and Blairstone Road (the Intersection Improvement project).

The Board approved Option 1: Approve the counteroffer to convey to the County the portion of the Church property needed for the new WSMF and accept as full compensation for the conveyance the amount of \$477,559.46 and direct the County Administrator to execute any and all documents necessary to complete the acquisition.

6. Approval of Contract with A Life Recovery Center, Inc., to Provide Drug Treatment Services to the Leon County Felony Drug Court Program

The Board approved the two-year agreement for drug treatment services with A Life Recovery Center, (ALRC), Inc.

7. Ratification of Board Actions Taken at the Fiscal Year 2003/2004 Annual Board Retreat

The Board approved Option 1: Ratify actions taken by the Board at the December 3, 2003 Annual Retreat and direct staff to prepare actions plans of each retreat priority. A quarterly status report on Board priorities and administrative issues will be brought back as an agenda item for Board review and approval.

(The top ten priorities for 2004 are as follows:

- 1) Water Quality/Total Maximum Daily Loads (TMDL)
- 2) Joint Dispatch/Emergency Operations Center
- 3) Charter Amendment (Joint City/County Stormwater)
- 4) Protection of North Florida Water Resources
- 5) Economic Development
- 6) Eliminate EMS MSTU
- 7) Womens Health Center on Southside
- 8) Community/Teen Centers
- 9) Funding for U. S. 90 East (Mahan Drive) to I-10
- 10) Southern Strategy

(The 2004 Administrative Issues include the following:

- Managing and leveraging of BluePrint dollars
- Expansion of the private road grading policy
- Incorporation of bus stops and shelters into road widening projects
- Redirection of County banking services
- Develop a communications strategy for public information office
- Establishment of disaster reserve fund
- Continue to pursue Ochlockonee River Issues

8. Approval of Revisions to Policy No. 01-05, *Rules of Procedures for Meetings of the Leon County Board of County Commissioners*

Commissioner Thael pulled this item for discussion.

The Board engaged in discussion regarding limiting the time speakers are allowed to speak at Commission meetings. Some Commissioners suggested that five minutes was sufficient although the proposal to limit cumulative time of 15 minutes was not appropriate. (The 15-minute cumulative time would only allow a speaker to talk on three items.) There was discussion about the Board being assessable to citizens and the Chairman limiting the amount of time that a speaker is allowed public comment at a to talk on a subject.

The following citizens appeared:

Bob Pannell, 2801 Glennis Court, expressed opposition to enforcing a time limit for speakers.

The following citizens appeared and expressed opposition to the proposed policy change that would limit the time for speakers:

Eugene Danaher, 10263 Thousand Oaks Circle

Becky Subrahmanyam, 1257 Cornerstone Lane

Ted Thomas, 1469 Vieux Carre, indicated support for the policy of limiting speakers' time to five minutes, but did not support the accumulative 15-minute rule.

Commissioner Grippa moved, duly seconded by Commissioner Winchester and carried 5 – 2 (Commissioners Thael and Rackleff voted in opposition), to approve Options 1 and 2 with changes as underlined 1) Adopt the revisions to Board Policy No. 01-05, Rules of Procedure for Meetings of the Leon County Board of County Commissioners, limiting each speaker's time to no more than six (6) minutes on General Business, Public Hearings, and the second Citizens to Be Heard on Non-Agendaed Items; delete the 15-minute cumulative time limit (page 12 of 12 (5) in the policy; bring back in three months for review; 2) Utilize current Commission Chambers remote control equipment to monitor the speaking time of each public speaker and notify the County Administrator.

9. Acceptance of the Tourist Development Council FY 2003 Fourth Quarter Status Report

The Board approved Option 1: Accept the Fourth Quarter Status Report of the Tourist Development Council. As part of the Action Plan, the TDC presents quarterly status reports on its accomplishments and activities on all program areas in the local tourism industry. See attachment:

10. Ratification of Board Actions Taken at the December 9, 2003 Workshop on Innovation Park Task Force Final Report and Approval of a Resolution Expanding the Leon County Research Development Authority Membership

The County Attorney requested that this item be pulled and placed on the Board's January 27, 2004 agenda.

11. Request to Schedule Two Public Hearings on a Proposed Amendment to the Official Zoning Map on Tuesday, January 27 and Tuesday, February 10, 2004 at 6:00 p.m.

The Board approved Option 1: Schedule public hearings on a proposed amendment to the Official Zoning Map from Rural to Lake Protection for Tuesday, January 27 and February 10, 2004 at 6:00 p.m. (This rezoning implements Comp Plan amendment 2003-2-M-003 which took 28.91 acres fronting on the west side of Meridian Road and the south side of Gardner Road out of the Rural future land use category and placed it in the Lake Protection future land use category.)

12. Request to Schedule Joint City/County Transmittal Hearing on Cycle 2004-1 Comprehensive Plan Amendments on Tuesday, January 27, 2004 at 6:00 p.m.

The Board approved Option 1: Schedule a Joint City/County Transmittal Hearing for the cycle 2004-1 Comprehensive Plan Amendments on Tuesday, January 27, 2004 at 6:00 p.m.

13. Request to Schedule the First and Only Public Hearing to Amend the Land Development Code to Provide for a Planning Department Director Designee for the Architectural Review Board on Tuesday, February 10, 2004 at 6:00 pm.

The Board approved Option 1: Schedule a public hearing on February 10, 2004 for the purpose of adopting a proposed amendment to the Land Development Code providing for a Planning Department Director designee for the Architectural Review Board.

14. Request to Schedule a Joint City/County Workshop Regarding the Implementation of the Inclusionary Housing Strategy on Wednesday, February 18, 2004 from 2:00 – 4:00 p.m.

County Administrator Alam pulled this item and reported that the City Commission could not meet on this date and another date would be brought back to the Board.

15. Approval to Award Bid for Community Parks Ground Maintenance Services to Mack's Lawn Service in the Amount of \$19,560

The Board approved Option 1: Award the continuing services contract for community parks grounds maintenance services to Mack's Lawn Service.

16. Approval to Modify the Payment/Collection Schedule for Contributions to the Construction of Turn Lane at Bannerman Road and Tekesta Drive Intersection

The Board approved Option 1: Authorize modification to the payment/collection schedule for contributions to the construction of the turn lane at Bannerman Road and Tekesta Drive intersection. (The proposed modification changes the collection of the contribution from the point of platting or site plan approval to collection as a condition of building permit issuance for the remaining unbuilt commercial development in Killearn Lakes Development of Regional Impact.)

17. Approval to Award Bid for Annual Asphaltic Concrete Concrete Materials and Services Contract to Peavy & Son Construction Company, Inc.

Commissioner Grippa pulled this item for discussion. He indicated that if only one bid is received, it should be rebid and that an item involving some \$500,000 should not be on the Consent Agenda but should be under General Business. Discussion ensued regarding pre-bid conference and the cost of asphalt. Keith Roberts, Purchasing, explained that usually there is a pre-bid conference on construction and heavy equipment. Commissioner Grippa requested that information be brought back on mandatory pre-bids.

Louie Seay, Project Manager for Peavy and Son, Inc. appeared and requested that the Board approve staff's recommendation and award the bid to Peavy and Son, Inc.

Chris McRae, 3055 Hawk's Landing Drive, stated that he is an attorney representing Peavy and Sons, Inc. The Board inquired

If he was registered and he explained that he was not. The Board indicated that he could register tomorrow in the Clerk's Office. Mr. McRae explained that it would put Peavy at a disadvantage if he had to rebid.

Commissioner Thael moved and was duly seconded by Commissioner Rackleff to approve Option 1: Award bid for annual asphaltic concrete materials and services to Peavy & Son Construction Company, Inc., and authorize the Chairman to execute a unit price agreement. The motion carried unanimously, 6/0 (Commissioner Grippa was out of the chambers).

18. Approval to Award Contract for Construction of Aenon Church Road Intersection Improvements at U. S. 90 to North Florida Asphalt, Inc., in the Amount of \$148,908

The Board approved Option 1: Approve the agreement for construction of Aenon Church Road intersection improvements at U. S. 90 to the lowest responsible bidder, North Florida Asphalt, Inc., in the amount of \$148,908, and authorize the Chairman to execute.

19. Approval to Award Bid for Articulating Motor Graders to Ring Power Corporation in the Amount of \$430,488

The Board approved Option 1: Award the bid to Ring Power Corporation for the purchase of three articulating motor graders in the amount of \$430,488.

20. Approval to Award Bid to *Tallahassee Advertiser* for the Advertisement of Leon County's 2003 Delinquent Property Tax Notices

The Board of County Commissioners of each county in Florida is to select and notify the Tax Collector of an advertiser for the delinquent property tax notices by January 31 of each year. The Board approved Option 1: Award Option B of the bid to the *Tallahassee Advertiser* at the rate of \$.399 per square inch.

21. Approval to Award Bid for Custodial Services in Group 4 Buildings (20-month period) to C & L Associates in the Amount of \$105,691

The Board approved Option 1: Award the Continuing Supply Contract for custodial services for Group 4 buildings to C & L Associates for a total cost of \$105,691 over a 20-month period, and authorize the Chairman to execute.

22. Approval of Travel Expenses for Commission Rudy Maloy to Attend the National Association of Counties (NACo) Annual Legislative Conference from February 27 – March 2, 2004 in Washington, D.C.

The Board approved Option 1: Approve travel expenses as requested.

23. Approval of Travel Expenses for Commissioner Bob Rackleff to Attend the National Association of Counties (NACo) Annual Legislative Conference from February 27 – March 2, 2004 in Washington, D. D.

The Board approved Option 1: Approve the travel expenses.

The Board then entered discussion on the public hearings, item 32.

Citizens to be Heard on Non-Agendaed Items (3-minute limit; non-discussion by Commission

- a. Bob Panell, Gwyndale Neighborhood, 2801 Glennis Court, spoke about a letter that was sent by the County Attorney's Office to the representatives of the developer of the proposed Wal-Mart at the Sam's site on North Monroe Street. He was concerned that the language in the letter implied the County's approval of revesting and committed the County to approving the development. The County Administrator explained that the County Attorney's Office was working with GEM staff on the item.
- b. Pastor Stanley Simms, 9217 Miccosukee Road, provided information regarding the Potter House which has been providing food to the needy for the past 12 years, and recognized the volunteers. It was noted that the Potter House receives no local, state, or federal funds and they are looking into obtaining funds for the federal government's "faith-based initiative." Commissioner Proctor asked that staff look into the availability of grant funds to assist.

General Business

24. Consideration of Advanced Life Support (ALS) Agreement with the City of Tallahassee

This agenda item seeks Board consideration of an agreement with the City of Tallahassee for the Advanced Life Support (ALS) Non-Transport First Responder component of the County Emergency Medical Services (EMS) Program to be performed by the Tallahassee Fire Department (TFD).

Since the Board's annual retreat in December, it became apparent that a staff recommendation on this item would be further complicated by competing Board direction; prior Board direction to effectuate an agreement for ALS with the City, and the Board retreat priority to eliminate the EMS MSTU. Ultimately, staff recommendation is based on the assumption that achieving a higher level of EMS service through the addition of the ALS non-transport function provided through the TFD, is a higher Board priority than the elimination of the MSTU. (If this assumption is incorrect, the Board intends to pursue the elimination of the EMS MSTU, then staff would recommend Option #2.)

The County Administrator provided a brief status and he also explained the agreement with the City.

A lengthy discussion ensued about the level of millage involved in the EMS MSTU, the cost to the City and the County for EMS, transport functions of the Tallahassee Fire Department, and the County's Fire Services agreement with the City.

Commissioner Thael moved and was duly seconded by Commissioner Grippa to approve Option 1: Authorize staff to finalize the attached agreement with the City of Tallahassee for ALS non-transport services to be provided at five fire stations in the City limits, authorize the Chairman to execute the agreement and direct the County Administrator to prepare the FY 04/05 budget utilizing the EM MSTU.

A substitute motion was made by Commissioner Grippa and was seconded by Commissioner Rackleff to delete Section 6, paragraph C (Attachment 2, page 11 of 20) and replace with "The County shall determine the ALS rate annually."

Following additional discussion, Commissioner Grippa withdrew his substitute motion.

The motion on the floor to approve Option 1 carried unanimously, 7/0. Commissioner Grippa explained that one of the Board's priorities was to reduce the EMS MSTU but presently, it would not be possible. He suggested that reducing the millage rate should become a Board priority, that staff bring back information on this, and that monthly EMS reports be provided rather than quarterly reports.

25. Consideration of Proposed Policy Amendments Regarding Appraisal Process for Flooded Property Acquisition Program

This item requests the Board to consider proposed amendments to Policy No. 03-01, Approval for Authority for the Acquisition, Disposition, and Leasing of Real Property, and to Policy No. 03-10, Flooded Property Acquisition Program, to establish an appraisal process to be used in determining the purchase price for acquisitions.

County Attorney explained that when the issue was brought to the Board in December, staff expressed some concerns regarding the operation of the program specifically with regard to utilizing a hypothetical appraisal for properties which staff found in many instances was essentially creating a banana for the individuals involved. He suggested that a new appraisal methodology be utilized; there is no real standard on the topic in the area. Mr. Thiele recommended that staff redraft the policy to incorporate a method that is now in the midst of a congressional bill that FEMA is utilizing as described in the agenda request, and that it be brought back to the Board as the methodology (Option 1).

George E. Lewis, 303 N. Gadsden Street, #6, voiced concern about the ordinance language and made suggestions for the Board's consideration:

- Add language shown in underline: Agenda request, page 2 (A) "when purchased or inherited"; consider the federal income tax cost basis as one of the factors since inherited property would take over the fair market value on the date of the death of the decedent to whom the title was traced
- Alleged that that paragraph (B) was open to fraudulent activity. Some financial institutions are granting home

equity loans without regard to how much equity is involved and are generally relying on the credit worthiness of the borrower.

Mr. Thiele stated that he used the FEMA policy but pointed out that it would be beneficial to look at the loan definition and base it upon the value of the property as opposed to the applicant's credit-worthiness. Mr. Thiele explained that he would define the type of loan is involved in (B). Commissioner Proctor indicated that it should be a value-based acquisition.

Commissioner Rackleff asked if paragraph B was necessary. Mr. Thiele responded that it is a policy question. If someone obtained an equity loan which exceeded over 100 percent of the actual value of the property, the County does not want to pay off their personal signature or equity loan; the County only wants to pay that which is equal to the value of the property. Mr. Thiele would address that in the policy.

Mr. Lewis raised other concerns:

- Should the mortgage or the secured loan have been in place prior to the last flood event – do not create a situation of collusion where the property owner, at the time of the flood, sells the property in sham transaction where the purchase price is inflated and a "windfall situation" is created. Mr. Lewis felt that the language "the greatest of the following (formulas)" on page 2, paragraph 1 would permit this.
- Gave the following scenario: The property has flooded and the owner collected insurance payments but did not reinvest in the property. Mr. Lewis suggested that there is nothing in the language that states that the County has to adjust the price the County is paying by reducing it by the amount of insurance proceeds that have been collected and not reinvested.
- Should the County compensate someone who has purchased the property with knowledge of the flooding problem? The person may have bought it cheaply from someone under pressure to sell and now they want the highest price and they would be entitled to it.

- Referenced paragraph D and raised the question: Does the County need anything else to make the policy fair and equitable? Staff is begging the question when they include the language: "replacement primary residence that is of comparable value." Mr. Lewis suggested getting away from language that talks about value and, instead, talk about functional equivalent and the appropriate location.
- Suggested that the Board look carefully at what they are paying the property owners – it is an important governmental function and was akin to eminent domain. Mr. Lewis suggested that in many instances it (flooding) is a direct result of the actions the Board has taken in other permitting issues.

Commissioner Proctor felt the focus should be on (C) "market value immediately before the Flood event." He stated that some of Mr. Lewis' comments were speculative observations suggesting a possible collusion and he did not feel this was the case. Commissioner Proctor stated that the policy should look at whether the County had a responsibility in the permitting of a home that was placed in harms way; if the County allows a person to buy in a flood area, they should have known that property value would decline and that it was negligent on the part of the County. He also disagreed with Mr. Lewis regarding the insurance issue and opined that when the consumer has purchased insurance on their home, it has nothing to do with the County, as a government, permitting them to build in a flood zone. The owners paid for private insurance and they are entitled to that and it does not exonerate what government has done in its failure to provide maximum protection. He suggested staying with fair market value before the most recent flood event as outlined in Item C.

Commissioner Grippa moved and was duly seconded by Commissioner Proctor to approve C (an amount equal to the fair market value of the property immediately before the most recent flood event affecting the property.)

Staff advised that this does not affect the 13 properties that are already in the process, the Southside buyout program, where offers have been extended. Mr. Tony Park, Public Works

Director, explained that he is still working with those individuals and offers have been extended to them.

Commissioner Rackleff indicated that the motion does not address insurance reimbursement where the County would deduct that from the County's payment. Commissioner Grippa explained that a person should not receive dual payment – they should not have their house bought out by the County and then receive catastrophe or insurance benefits.

To address this, Mr. Thiele explained that the County can require proof and determine whether or not the owner has made a claim; if they have, staff will have to determine if it has been reinvested into the house. Commissioner Grippa stated that this should be incorporated into the motion.

Commissioner Grippa explained that replacement value is the fair market value prior to the flood event taking place and it is based on fair market value based on today's value prior to the flooding event.

Mr. Thiele concurred that this is the definition of replacement value, although it is different than what is contained in subparagraph D. He stated that the replacement value is duplicating the exact house for the value that the house had before the last flooding event; it does not mean buying another house in another location that does not flood; this is two different things, since it may be more expensive to buy in an uphill location. He advised that subparagraph C and D are different.

Commissioner Grippa moved to amend his motion that the County will pay fair market value if they purchase the house, or the homeowner has the option of taking the insurance benefit and using it as they wish.

Commissioner Proctor did not accept the amendment to the motion and withdrew his second.

Commissioner Rackleff seconded the amended motion.

Mr. Thiele stated that the motion on the floor would change that to be the fair market value of the property, a realistic appraisal, not a hypothetical appraisal. The second part of the motion is that there would be an insurance adjustment offset

for anyone who chose to take the insurance benefit and not reinvest it in the property. Mr. Thiele felt that the County was on safer legal ground using this method; subparagraph C and D were complementary to each other and he was comfortable with this.

Commissioner Proctor offered a substitute motion to approve C and D as described:

"The Act provides specific criteria to determine the amount of a purchase offer by requiring that the offer be not less than the greatest of the following:

(C an amount equal to the fair market value of the property of the property immediately before the most recent flood event affecting the property; and

D) an amount equal to the replacement value of the property immediately before the most recent flood event affecting the property, except that this subparagraph shall apply in the case only of a property for which the State or community taking action under subsection (C) (2) [to purchase severe repetitive loss properties] determines, and the Director concurs, that the fair market value referred to in subparagraph (C) of the property is less than the purchase price of a replacement primary residence that is of comparable value, functionality equivalent, and located in the same community or market area but not in an area having special flood hazards

Loretta Rainiere, 6702 Chevy Way, spoke about insurance claims and stated that insurance only pays for a portion of items, such as a wall, carpet, and not the full amount of the home. She stated that the affected citizens are not trying to get a windfall and explained that regular home insurance does not cover flooding, only flood insurance covers it and it does not give 100 percent or replacement value.

Commissioner Proctor called the question.
(Mr. Thiele explained that the substitute motion is without the insurance rider.)

The substitute motion failed with a tie vote of 3 – 3
(Commissioners Sauls, Maloy, and Proctor voted in the affirmative; Commissioners Grippa, Thael and Rackleff voted in opposition; Commissioner Winchester was out of Chambers).

The amended motion on the floor is to approve Option 1 with (C) (with addition of an insurance clause shown in underline):

"The Act provides specific criteria to determine the amount of a purchase offer by requiring that the offer be not less than the greatest of the following:

Option 1: Approve proposed appraisal procedure and direct the County Attorney to make amendments to Board Policies 03-01 and 03-10, as appropriate, and bring back the amended policies for Board approval. The amendments are to approve C with the insurance language as shown in underline:

C) an amount equal to the fair market value of the property immediately before the most recent flood event affecting the property offset by the amount of insurance, which has not been reinvested into the property.

The amended motion carried 4 – 2 (Commissioners Proctor and Maloy voted in opposition and Commissioner Winchester was out of Chambers).

26. Consideration of Potential Funding Alternatives for the Payment of Legal Bills Stemming from Commissioner Maloy's Reimbursement Requests

The Board engaged considered potential funding alternatives for the possible payment of legal bills stemming from Commissioner Maloy's reimbursement requests.

(The agenda request explains that through two separate requests, Commissioner Maloy is currently seeking payment for legal expenses of approximately \$540,000 from the County. The Board has denied payment of both of these requests. The County is currently being sued as to the first requests for these funds to be paid. At the December 9, 2003 Commission meeting, the Board directed staff to identify possible funding sources if the County is ultimately required to pay some or all of the requested payments. In addition, the County Attorney has estimated that it will cost approximately \$80,000 to defend the County against these lawsuits for the current fiscal year. Depending upon the outcome, appeals, etc., additional funds will be required by the County Attorney's Office.)

The Board engaged in discussion regarding potential funding alternatives for the payment of legal bills and the total costs and the account that costs should be taken out of.

Commissioner Grippa moved and was duly seconded by Commissioner Rackleff to approve Options 1 and 2: 1) Approve the attached budget amendment realigning \$80,000 from the General Fund contingency account to the County Attorney's Office; 2) Commit the remaining balance in the General Fund contingency account (\$375,747) for the possible payment of legal judgement(s).

Commissioner Maloy indicated that normally the Board does not take funds from General Fund Contingency to pay for legal issues and suggested that it would be appropriate to use the funds from the Risk Contingent Liability account.

The motion carried 4 – 1 (Commissioner Maloy voted in opposition and Commissioners Proctor and Winchester were out of Chambers).

27. Consideration of Mid-Year Funding Request from Capital City Preparatory Schools in the Amount of \$35,000

This item seeks Board consideration of a mid-year funding request in the amount of \$35,000 for Capital City Preparatory Schools (CCPS) from General Revenue Fund Contingency.

Pastor Norris Barr and wife, Ricky Barr of 1519 China Lake Trail, explained that 65 kids attend the school and asked that the Board provide funding for the shortfall. She explained that the school provides 15 full-time jobs for local citizens, which assists economic development in the community.

Commissioner Proctor moved and was duly seconded by commissioner Maloy to approve Option 1: Approve the allocation of \$35,000 for Capital City Preparatory Schools from General Revenue Fund Contingency.

The Board engaged in discussion about setting a precedent for funding private and/or religious schools and noted that the school was under investigation by the Department of Education.

Commissioner Grippa moved a substitute motion, duly seconded by Commissioner Thaell to approve Option 3: Do not approve the funding request, with the addition that the Chair send a letter to the Economic Development Council (EDC) to consider the funding request since they provide 15 full-time jobs for the community. The motion carried 5 – 2 (Commissioners Proctor and Maloy voted in opposition).

28. Adoption of a Resolution in Support of the Metropolitan Planning Organization's (MPO) Apportionment Plan

The Apportionment Plan provides information to the Federal Highway Administration on the MPO distribution of its voting membership. The plan also includes a map of the area that will now fall under the MPO's jurisdiction.

Commissioner Thaell moved and was seconded by Commissioner Winchester to approve Option 2: Do not adopt the resolution in support of the MPO Apportionment Plan.

The motion carried 6/1 (Commissioner Grippa voted in opposition). It was noted that the issue of funding for roads/transportation and MPO apportionment would be brought back on the MPO agenda on January 26, 2004.

29. Acceptance of Staff Report on the Proposed Route for the City of Tallahassee Eastern Transmission Line

This item seeks Board direction regarding the placement of the City of Tallahassee Eastern Transmission Line (ETL). On November 25, 2003, the Board directed staff to review items concerning electric transmission lines in general and the ETL specifically, and the results are detailed in the agenda request and included the following:

- Explore the CSX Route and other possible alternate routes
- Ranking order of the recommended routes of the consultant
- Comparative costs of buried lines vs. overhead lines
- Potential health effects of electromagnetic fields
- Impact on wildlife (particularly birds)
- Devaluation of property near transmission lines
- Aesthetic concerns
- Are there any plans for the City to purchase homes near transmission lines
- Notification of neighborhoods through CONA

It was noted that there was an add-on sheet from Commissioner Grippa, which was drafted by the County Attorney and contains three alternatives.

Commissioner Rackleff moved and was duly seconded by Commissioner Grippa to approve the following as listed in the agenda add-on item:

- 1) Object to the City's siting of the ETL and direct the County Attorney to set a meeting with the City Attorney to discuss options and alternatives; and
- 2) Object to the City's siting of the ETL via participation in the application proceedings, pursuant to Sections 403.526 and 403.527, Florida Statutes, and direct the County Attorney to formulate strategies thereto; and
- 3) Contact the Florida Department of Transportation to object to the renewal of the right of way permit.

The Board and citizens indicated that they received conflicting reports from the City about the route and other issues regarding the pipeline. It was noted that the consultant that the City hired had made three recommendations for the route

of transmission line: #1 - CSX, #2 - Buck Lake Road, and #3 - Mahan Drive. The City proposed the third recommendation, which was Mahan Drive.

The following citizens appeared and voiced concerns regarding safety, aesthetics, miscommunication with the City, lack of due diligence, and other issues. Some citizens will meet with the City tomorrow on the issue.

Gary Steinberg, 1865 Vineyard Way

Harry Mursten, 1802 Vineyard Way

Scott Grant, 1796 Vineyard Way, President of Vineyards

Zoe Kulakowski, 1320 Blockford Court, W. appeared representing Buck Lake Alliance.

Ken Dunston, 2132 Orleans Drive, Lafayette Oaks

Nancy Laux, 2309 Bourgogne Drive

Steve Moon, 1909 Vineyard Way

Bill Smith, 5500 Touraine Drive, President of Lafayette Oaks Homeowners' Association, will meet with the City tomorrow and deliver comments made by citizens today.

Commissioner Thael indicated the need for planning for future growth and to look into alternatives to reduce the demand such as solar power, weatherizing homes, and low energy appliances.

The Board engaged in discussion about Commissioners attempting to meet with City in the past on this issue without receiving any response from the City. The Board suggested that Commissioner Rackleff attempt to meet with the City on this issue.

The motion carried on the floor carried unanimously, 6/0. Commissioner Rackleff will have a dialogue with the City on this issue.

30. Selection of Appointments to the Cultural Resource Commission

Following a brief discussion, it was the consensus of the Board to leave the current members on the CRC under the listed category: Joan Burroughs – Practicing Artist; Ken Winker – At-Large; Sharon Press – At-Large.

Commissioner Thael moved to appoint several individuals to the CRC. Commissioner Maloy seconded the motion.

Following a brief discussion, the Board concurred that each district Commissioner should make an appointment.

Commissioner Thael withdrew his motion.

Commissioners made the following appointments under the listed category:

- Commissioner Proctor appointed Beverly Barber - Heritage
- Commissioner Winchester appointed Paula Smith - Volunteer
- Commissioner Grippa appointed Mike Sheridan - Business
- Commissioner Rackleff appointed Gil Ziffer - Marketing
- Chairman Sauls appointed Mike Bristol - Tourism

Commissioner Rackleff moved, duly seconded by Commissioner Thael and carried unanimously, 7/0, to approve the eight appointments listed above.

31. Expiration, Vacancies and Appointments

Dorothy C. Spence (Chaires) Community Center Board of Directors:

Commissioner Winchester continued his appointment. It was noted that Commissioner Maloy had already made his appointment of T. J. James.

GEM Citizens User Group:

Commissioner Proctor continued his appointment.

Human Services Grants Review Committee:

Commissioner Maloy appointed Kim Moore. Commissioner Proctor reappointed Bettye Woodson.

Library Advisory Board: Commissioner Maloy reappointed Anneliese Oppenheim.

Scheduled Public Hearings, 6:00 p.m.

32. Second and Final Public Hearing on a Proposed Ordinance Amending the Land Development Code to Address Protection of Cultural Resources

The Board conducted the continuation of the second public hearing to adopt a proposed ordinance (Cultural Resources Ordinance) amending Leon County's Land Development Code (LDC) to better define cultural resources and to set forth protection standards for significant cultural resources.

It was noted that staff responded to various issues raised at the December 9th Board meeting which is included in the agenda request and includes the following:

- Language pertaining to matters other than Cultural Resources
- The ordinance in relation to Belle Aire Cemetery
- Use of the word "may" in the ordinance
- Expedited processing of cases involving fortuitous finds and unmarked human burials
- Potential for ordinance being overly restrictive and a burden placed on the County Administrator

The following citizen appeared:

George E. Lewis, II, 203 N. Gadsden Street, #6, appeared and made the following suggestions:

- If the Board is going to adopt the proposed ordinance, it should be made effective community-wide. The County has the power to do so since it is a consolidated government.
- Referred to Attachment 1, page 2 of 9, line 20 and suggested that there is no identification language showing who makes the determination of being a "significant cultural resource."
- Suggested that it was an invasion of the right to use private property if an owner is required to create a cultural resource preservation plan and provide public access to see the cultural resources. Mr. Lewis stated that the Board should be absolutely certain that it is necessary and that the standard by which the determination is made are reasonable.

- Indicated that words in the proposed ordinance such as "potentially significant cultural resources" could be problematic.
- Indicated that the Florida Statutes deal with preservation of burial sites and could be invoked to achieve preservation results in areas that are determined to be a significant cultural resource

Commissioner Winchester wanted to know what could be done on the front end of a development to ensure that there are no significant archeological or cultural resources on a particular site.

Clay Carithers, GEM, explained that the main purpose of the ordinance is to codify what staff is already doing and to make it clear to staff and the applicant (for subdivision, site plan, and PUD review) the process that they must go through. He explained the process, which includes that the applicant must submit a natural features inventory and a clearance letter from the State Division of Historic Resources.

Commissioner Thaeli wanted to know what Statutes exist that provide the same protections proposed in the ordinance that Mr. Lewis referenced. County Attorney Thiele explained that there are a number of statutes that deal with historic resources, but the proposed ordinance definition is broader and provides enforcement capabilities.

Commissioner Proctor referred to the agenda request, Analysis section, page 4 regarding "Expedited Processing of Cases Involving Fortuitous Finds and Unmarked Human Burials." It states that the subsection has been revised to emphasize that protection of significant cultural resources will take precedence over possible delays in development activities. Commissioner Proctor stated that the proposed ordinance in Attachment 1, page 5 of 9, (3), does not reflect the same and recommended changes which are identified below.

Commissioner Thaeli moved and duly seconded by Commissioner Grippa to approve Option 1 with amended language: Conduct the second public hearing and adopt the proposed Leon County Ordinance Number 04-01 amending the Land Development Code to address protection of Cultural Resources with the corrected language offered by

Commissioner Proctor on Attachment 1, page 5 of 9, (3) which should read as follows:

(3) In cases where previously unidentified cultural resources are discovered or an unmarked human burial is discovered, the County Administrator or designee will ~~seek to expedite~~ facilitate the County's final resolution of the matter in an effort to balance the interests of the affected ~~minimize the interruption of lawful~~ cultural resources and the development activities affected by such discoveries. The review and processing of such cases shall not be conducted in a manner that could jeopardize the foremost goal of protecting significant cultural resources.

The motion on the floor carried 6 – 1 (Commissioner Winchester voted in opposition). See attached Leon County Ordinance Number 04-01:

Commissioner Grippa introduced his new Aide, Latisha Adams, to the Board. She will come on board in February.

33. First and Only Public Hearing on a Petition for a Sewer Utility 2/3 Project for Residential Lots Along Beech Ridge Trail in Killearn Lakes Unit I

Pursuant to legal advertisement, a public hearing was conducted for a sewer utility 2/3 project for the residential properties on Beech Ridge Trail and adopt a resolution authorizing the special improvements.

(Beech Ridge Trail is a County-maintained street located in Killearn Lakes Unit I, as recorded in Plat Book 6, page 26 of the Public Records of Leon County, Florida. It is the first side street off of Kinhega Drive from Thomasville Highway.)

Brad Trottman, 711 Beech Ridge Ridge, Executive Director of Killearn Lakes Homeowners Association, thanked the Board for the assistance and stated that it would be an improvement to get off of septic tanks in the area.

Commissioner Grippa moved, was duly seconded by Commissioner Maloy and carried unanimously, 7/0, to approve Options 1 and 2: 1) Conduct the first public hearing for the Beech Ridge Trail Sewer Utility 2/3 Project; 2) Adopt the attached Resolution R04-01 authorizing special improvements:

Add-On

Request to Schedule a Public Hearing for February 10, 2004 at 6:00 p.m. for the Pre-Application for Authorization of a Service Area to Operate a Water and Sewer System Serving Sable Chase Subdivision and a Sewer System Serving Other Properties in Killearn lakes Unit 2

Commissioner Rackleff moved, duly seconded by Commissioner Winchester and carried unanimously, 7/0, to approve Option 1: Schedule a public hearing for February 10, 2004 at 6:00 p.m. for the pre-application for authorization of a service area to operate a water and sewer system serving Sable Chase Subdivision and a sewer system serving other properties in Killearn Lakes Unit 2.

Citizens to Be Heard on Non-Agendaed Items

Eugene Danaher, 10263 Thousand Oaks Circle, appeared and spoke on various issues:

- Offered kudos to the Board for the formulation of the EMS and noted that it was the best accomplishment of the Board
- Noted the lack of collegiality and cooperation between the City of Tallahassee and Leon County, Board of County Commissioners. Mr. Danaher noted that it appears that the County is more willing to cooperate than the City.
- Recommended consolidation of City and County governments
- Noted that citizens are fed up with the lack of corporation between City and County governments
- Referred to the consent agenda where the Board approved travel requests for two Commissioners to go to Washington, D.C. Mr. Danaher suggested that only one Commissioner should travel and when he returns, he could report on the trip to the other Commissioners and to the public
- Voiced complaint regarding the County libraries and other County offices closing on Fridays after a holiday; suggested revisiting the County's policy
- Spoke about the Fourth Quarter Status Report of the Tourist Development Council (TDC) and stated that the TDC is giving money to various activities such as Capital City Classic, which he feels do not deserve money. He alleged that Capital City Classic is contributing campaign funds to Commissioners and is using money they receive from the TDC. Mr. Danaher

requested that the Board talk to Tommy Waites and Guy Thompson, TDC Executive Director, regarding this matter.

- Indicated that the Board was supposed to come up with a system regarding employee grievances involving sexual harassment cases to avoid another Ethics Commission case. Mr. Danaher indicated that this did not occur and advised that he has received calls from employees regarding harassment issues but was not allowed to voice a complaint to the County because under the current policy, the victim can only file the complaint.
- Advised that he left a folder with staff so it could be given to the Chairman and the contents to be distributed to the Board. Chairman Sauls explained that she received the folder and would distribute the material.

Commissioner Grippa moved, duly seconded by Commissioner Rackleff and carried unanimously, 7/0, to extend the meeting for 10 minutes, until 11:20 p.m.

County Attorney

Announced that the Lauder property now belongs to Rick Kearney and the County has received \$5.4 million for the sale. The County now has the deed for the property for the park and the old Bradfordville School.

Discussion Items by Commissioners

Commissioner Grippa

- a. Requested a status on Lake Kilkee.
- b. Requested resolution for Erin Vansickel, his former Commission Aide.
- c. Advised that Florida Highway Products has dropped off material regarding a regenerated environmental-friendly item called full-depth reclamation, which is claimed to be an environmentally sensitive way to build roads. Commissioner Grippa requested that staff bring back an overview at a future meeting.
- c. Requested that staff investigate why it takes 15 hours for him to receive email from the Courthouse to his FWCIGA Office.

- d. Requested that staff not charge citizens for copies of one or two pages since the charge is more than the postage. Staff was asked to bring back a revision, which would allow the copies to be free of charge.
- e. Inquired about the cable and power line on Old Centerville Road that was cut. He advised that he was aware that staff conducted a research about the incident, but he has since read a letter from Sprint indicating that it was the County's error. He will provide the documentation to the County Administrator in an effort to determine where responsibility lies.

Commissioner Proctor

- a. Requested a resolution for Bond Health Clinic for receiving an outstanding audit rating from the Federal Government.
- b. Invited Commissioners to the Martin Luther King Celebration tomorrow, January 14th at 12 Noon. FAMU President Gainous will be the featured speaker.
- c. Requested an update on the North Florida Fair Grounds study.
- d. Advised that he has not received information from staff on his previous request regarding Little Silver Lake. Apparently the City has provided funding in the amount of \$150,000 and Commissioner Proctor wanted to know if the County could assist with funding the effort.
- e. Advised that he circulated a memorandum regarding increasing City Commissioners' salaries which will be a topic of discussion at tomorrow's City Commission meeting.

Commissioner Proctor moved and was duly seconded by Commissioner Maloy that the Board consider a citizens group to look at the County Commissioner's salaries to be revised and adjusted relative to the other constitutional officers of the County. The motion failed 5 – 2 (Commissioners Sauls, Thael, Rackleff, Winchester, and Grippa voted in opposition).

Commissioner Rackleff

- a. Advised that he has been contacted by the Big Bend Hospice and they would like for the County to continue the policy that TMH had regarding un-reimbursed ambulance rides for hospice patients. It was the consensus of the Board to agenda the item.
- b. Stated that the proposed N. G. Wade development in Wakulla County is going through the administrative proceedings at DCA. Chairman Sauls circulated a letter from a citizen regarding the proposed development that was hand-delivered to the front desk today. Commissioner Rackleff indicated that if the County does not intervene, it could be left out of some type of settlement agreement leaving the County at a disadvantage.

Commissioner Rackleff moved and was duly seconded by Commissioner Thael that staff bring back an agenda item on the possibility of Leon County intervening in the DCA proceedings on the proposed Comprehensive Plan Amendment involving the N. G. Wade Development. The motion carried 6 – 1 (Commissioner Grippa voted in opposition).

It was note that the Board had previously talked about both Commissions having a field trip to look at Munson Slough and the interrelationship of Leon County and Wakulla County with regards to Wakulla Springs. The Board wanted to know if any progress had been made about planning the field trip. The County Administrator would address the issue.

Commissioner Winchester

- a. Requested a status report on the proposed joint regional I-10 stormwater facility between Leon County, the City, and FDOT which would help resolve the I-10 widening project. The Citizens Committee and Friends of Lake Jackson have been discussing the issue. It was the consensus of the Board to agenda the item.
- b. Advised that the proposed Super Wal-Mart project on U. S. 27 would be a topic of discussion tomorrow, January 14, 2003 at the Fringe Benefits Building at 7:00 p.m. Commissioner Winchester invited Commissioners to attend. He stated that there has been confusion over the re-vesting of the unbuilt portion of the existing Wal-Mart site (Hastings property). He

stated that there is a letter that was written today, which reverses the provisions of the previous policy and he wanted to know if the letter commits the County to revesting if the application meets the ordinance criteria. Commissioner Winchester suggested that staff respond in a memorandum.

Commissioner Winchester moved, duly seconded by Commissioner Thael and carried 6 – 1 (Commissioner Thael voted in opposition), to extend the Board Meeting until 11:40 pm.

County Attorney Thiele explained that County staff has sent correspondence to Nancy Linnan, the applicant's representative, which outlined what she needed to submit in order to meet the criteria, but staff has not, in any fashion, indicated that they have met the criteria or that they will be able to do so. He further explained that if the criteria were met, they would still need to have a site plan approved, which would include all of the criteria and requirements. Mr. Thiele explained that he was simply outlining to the applicant the route that would need to be followed if they were to meet each hurdle, and they have not submitted anything at this point.

- c. Advised that he would like to dispell any rumors about the Lake Jackson Library. He has heard that the owners of the shopping center will bring back a plan to remodel the existing center to accommodate a larger space for the library. Commissioner Winchester explained that the Board has already voted to budget this year a stand alone library for District 3 and District 5 and he does not wish to see this item on the agenda.

Commissioner Rackleff explained that the owner of the shopping center has approached him about a plan that would involve leasing additional space to expand the size of the current branch library. The Board advised that it would require a majority vote of the Board to place the item on the agenda for discussion.

- d. Provided an update on the Cairo, Georgia proposed dam. The City of Cairo was pursuing a contract regarding the wastewater treatment facility and they plan to discharge into Parkers Mill Creek. Commissioner Winchester requested a status report

and asked the County attorney if any action needs to be taken legally.

- e. Referred to the landfill which has been approved by Decatur County, Georgia and requested an update.

Commissioner Thael

- a. Requested a resolution for Jack Levine who is retiring as the Executive Director of Voices for Florida Children and the Florida Children's Center. Mr. Levine has been a children's advocate for 25 years. The Board concurred.
- b. Reported that he received a request from a constituent who owns 95 acres of environmentally sensitive land on Crump Road. The owner has requested the opportunity to enter into a development agreement with the County to preserve most of the land and to not increase any allowable densities. Commissioner Thael explained that he has talked to the County Attorney and environmental staff about this and it appears to be a good opportunity. He asked that the Board allow the landowner and his attorney to make a proposal to the County, and the Board concurred.
- c. Advised that he has received many complaints about odious smells and heavy equipment noises coming from the U. S. 27 landfill. Commissioner Thael stated that it appears that the County is still taking Class I garbage to the landfill and has renewed the operating permit. It was his understanding that the landfill would be closed to Class I garbage and such promises have been made to the residents in the surrounding area. He asked if the Board authorized the continuation of Class I operation at the landfill.

County Administrator Alam explained the Board previously voted to keep the landfill open for Class I garbage for emergency purposes such as the transfer station failing. The only way the state would permit the landfill to have the emergency operation when it is needed is to keep it at a Class I landfill. To do so, the County must have some garbage put there and the garbage that individuals bring is what is permitted which is only a small amount of garbage and not large truckloads. Mr. Alam also explained that the odor is coming from methane gas that is being generated at the

landfill and the County will soon be burning the gas, which would take care of the odor problem.

A report, including the Board's previous action regarding the issue, would be provided.

- d. Requested an agenda item to look at the RFP process to include preference points for contractors who provide employee health insurance to all of their full-time employees. Commissioner Thaeli reminded the Board that the County is paying through property tax dollars to provide health care for indigents in the community and he suggested giving an incentive to contractors who provide health insurance.

Commissioner Thaeli moved, duly seconded by Commissioner by Commissioner Rackleff and carried 4 – 3 (Commissioners Grippa, Proctor, and Winchester voted in opposition), to agenda this item for Board consideration. Commissioner Thaeli will provide information about how other cities and counties are using this process.

Chairman Sauls

- a. Circulated a letter from the Primary Health Care Advisory Board requesting that Leon County make, as a legislative priority, the voter approved indigent surtax as a possible alternative to the health care program Municipal Services Taxing Unit (MSTU). It was noted that a sales tax could be used as an alternative to using property taxes. It was the consensus of the Board to agenda this item for discussion.
- b. Requested a resolution for Alfred B. McClay State Park anniversary.
- c. Requested a resolution for the American Red Cross Disaster Resistance Neighborhood Program.

There being no further business to come before the Board, Commissioner Thaeli moved, duly seconded by Commissioner Rackleff and carried unanimously, 7/0, to adjourn the meeting at 11:46 p.m.

APPROVED: _____
Jane Sauls
Chairman

ATTEST:

Bob Inzer
Clerk of the Circuit Court